

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

1) State of Oklahoma, ex rel.)	
Department of Transportation,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-22-942-J
)	
1) United States Department of Interior,)	
Bureau of Indian Affairs, on behalf of the)	
Heirs of Tract ID #802 1828-K; 2) Alice A.)	
Young Bear; 3) Georgia A. Kaulaity; 4))	
Kenny Payne; 5) a Perpetual Highway)	
Easement containing 0.84 acres located in)	
the NW/4, SW/4, SW/4 of Section 29, Township)	
5N, Range 14W in Kiowa County, Oklahoma,)	
)	
Defendants.)	

COMPLAINT

COMES NOW the Plaintiff, State of Oklahoma, ex rel. Department of Transportation (the "Plaintiff"), and for its cause of action against the Defendants alleges and states as follows:

1. This action is instituted in the name of the State of Oklahoma, ex rel. Department of Transportation, as authorized by and in accordance with 25 USC §357 and 69 Okla. Stat. 2011 § 1203.

2. For the purpose of establishing, constructing and maintaining the State Transportation System in Kiowa County, Oklahoma, it is necessary for the Plaintiff to acquire an interest in the tract of land hereinafter described on Exhibit "1", attached hereto and made a part hereof, excluding mineral interests but including airspace and including the right to use and remove any and all roadbuilding materials. The acquisition shall be for a perpetual highway easement, unless specified otherwise in the legal description(s) attached hereto in which case the quality of title or interest to be acquired herein shall be as stated in such legal description(s). The property

is to be acquired for the construction and maintenance of said State Transportation System or facilities necessary and incidental thereto.

3. Said property is situated in Kiowa County, Oklahoma. The above named Defendants own or claim some interest in said real property.

4. Plaintiff further states and represents that it has made reasonable effort to secure by purchase, from the said Defendants, the land hereinafter described on Exhibit "1". Plaintiff further asserts that said Defendants are unable or have refused to grant same to the Plaintiff.

5. An affidavit of need and necessity to acquire the above described property is hereto attached, marked Exhibit "2", and made a part of this Complaint.

6. Plaintiff further states that it is necessary for the State of Oklahoma to acquire said title or interest and all equivalent rights, title or interest in and to the light, airspace and view above same in order to accomplish the public purpose of constructing and maintaining a public transportation system and related facilities. Acquisition of this property by Plaintiff excludes mineral interests. Said mineral interests may only be explored as provided by law and in a manner not inconsistent with use of said property for public transportation service and other purposes incidental thereto.

WHEREFORE, premises considered, Plaintiff prays that the Court appoint three disinterested freeholders of said Kiowa County as Commissioners. They should be selected by the Judge of the U.S. District Court, as prescribed by law, and should not be interested in any like question. The Commissioners should be instructed to inspect said real property described on Exhibit "1" and to consider and appraise the just compensation to which the said Defendants as owners thereof, or who profess an interest therein, are entitled by reason of the taking of a perpetual highway easement across such property. The Report of Commissioners should be filed

with the Clerk of this Court. Notice as prescribed by statute should be served by the Court Clerk upon all parties. Upon deposit with the Clerk of this Court of the amount stated in the Report of Commissioners, Plaintiff is authorized to enter upon said land and take said real estate for its use hereinbefore described. The final determination of all rights and issues of the parties should be made in the manner prescribed by law.

Respectfully submitted,

STATE OF OKLAHOMA, ex rel.
DEPARTMENT OF TRANSPORTATION

By: /s/ Becky D. McDown

Becky D. McDown, OBA No. 13138
Assistant General Counsel
200 N.E. 21st Street
Oklahoma City, OK 73105
Office: 405.521.2681
Facsimile: 405.522.3720
Bmcdown@odot.org